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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,479	07/09/2001	L. Carlton Brown JR.	006969-022311US	7465
20350	7590	06/10/2008		
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER	
			ERB, NATHAN	
			ART UNIT	PAPER NUMBER
			3628	
			MAIL DATE	DELIVERY MODE
			06/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/902,479	<b>Applicant(s)</b> BROWN ET AL.
	<b>Examiner</b> NATHAN ERB	<b>Art Unit</b> 3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 and 12-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 12-32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 17, 2008, has been entered.

### ***Response to Arguments***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Applicants' response to Office action was received on March 17, 2008.

4. Applicants' response is technically non-compliant. Cancelled claim 11 is missing from the claim listing. Cancelled claims are to be included in the claim listing. Due to the minor nature of the non-compliance and in the interest of expediting prosecution, Examiner is issuing this Office action. However, please avoid this non-compliance in future responses.

5. Please note the new rejections under 35 U.S.C. 112, second paragraph, below in this Office action.

6. In response to Applicants' amendment of the claims, the rejections of the claims under 35 U.S.C. 103 from the previous Office action are hereby withdrawn.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-10 and 12-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 1, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “if the user is an authorized user and the serial number is an authorized serial number...”

As per Claims 2-9, these claims depend either directly or indirectly from claim 1 and thus incorporate its indefinite element/limitation. Since these claims do not remedy that indefiniteness problem of claim 1, they are also indefinite.

As per Claim 10, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “if the user is an authorized user and the serial number is an authorized serial number...”

As per **Claims 12-21**, these claims depend either directly or indirectly from claim 10 and thus incorporate its indefinite element/limitation. Since these claims do not remedy that indefiniteness problem of claim 10, they are also indefinite.

As per **Claim 22**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “if the user is an authorized user and the serial number is an authorized serial number...”

As per **Claims 23-24**, these claims depend either directly or indirectly from claim 22 and thus incorporate its indefinite element/limitation. Since these claims do not remedy that indefiniteness problem of claim 22, they are also indefinite.

As per **Claim 25**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “if the user is an authorized user and the serial number is an authorized serial number...”

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As per **Claims 26-32**, these claims depend either directly or indirectly from claim 25 and thus incorporate its indefinite element/limitation. Since these claims do not remedy that indefiniteness problem of claim 25, they are also indefinite.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Erb whose telephone number is (571) 272-7606. The examiner can normally be reached on Mondays through Fridays, 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Erb  
Examiner  
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Nhe

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628